

REMARKS

Administrative Overview

After entry of this Response, claims 1–22 will be pending. Claims 1–12 have been amended. Support for the amendments may be found in the application as it was initially filed, for example, at pages 3, 10, 29 and 30. No new matter has been added by these amendments.

In the Office Action mailed on October 3, 2007, claims 1–22 were rejected for nonstatutory double patenting. Claims 1–11 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter, and 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and claim the subject matter which the applicant regards as the invention. Claims 1–22 were also rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 6,603,487 to Bennett et al. (hereinafter “Bennett”).

A Terminal Disclaimer is Enclosed to Overcome the Double Patenting Rejection

Claims 1–22 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1–8 of U.S. Patent No. 7,181,427 (hereinafter “the ‘427 patent”).

Applicant submits herewith a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c), disclaiming over U.S. Patent No. 7,181,427. The Commissioner is hereby authorized to charge the requisite fee to Deposit Account No. 07-1700.

The Amended Claims Satisfy 35 U.S.C. § 101

Claims 1–11 were rejected under 35 U.S.C. § 101 “because the claimed invention is directed to non-statutory subject matter, particularly, an abstract idea.” In particular, claims 1–11 were said to concern functional descriptive matter per se, and it was suggested that amendment to recite functional descriptive matter recorded on a computer readable medium may address this problem.

As amended, claims 1–11 now recite a “computer readable medium comprising computer instructions to implement and control an interactive credit application and routing system” and various component elements thereof. These amended claims clearly encompass statutory subject matter, as they recite functional descriptive matter recorded on a computer readable medium.

For these reasons, we respectfully submit that amended claims 1–11 satisfy the strictures of 35 U.S.C. § 101.

The Amended Claims Satisfy 35 U.S.C. § 112, ¶ 2

Claims 1–11 were rejected under 35 U.S.C. § 112, ¶ 2 “as being indefinite for failing to particularly point out and distinctly claims the subject matter applicant regards as the invention.” In particular, claims 1–11 were said to improperly use “means” clauses under 35 U.S.C. § 112, ¶ 6, and improperly include both product and process elements.

We respectfully submit that the foregoing amendments, which eliminate the “means” clauses at issue, address this rejection and respectfully request its withdrawal.

The Claims, as Amended, are Patentable over Bennett

The two independent claims in this case—claims 1 and 12—have been rejected under 35 U.S.C. § 102(e) as anticipated by Bennett. A proper rejection for anticipation requires the inherent or express description of “each and every element” of a claim in a single prior art reference. See MPEP § 2131. As discussed below, Bennett neither teaches nor suggests each and every element of the claims at issue.

As amended in this Response, independent claim 1 requires a second computer at a system host, “computer instructions for execution at said host for selectively forwarding said received credit application to one or more of said plurality of funding sources,” and “computer instructions for execution at said host for receiving said funding decision from said at least one of said one or more of said plurality of funding sources” (emphasis added).

Independent claim 12 similarly requires a host system “configured for receiving said credit application from said dealer web site and for selectively forwarding said received credit application to one or more of said plurality of funding sources, for receiving a funding decision from said at least one of said one or more of said plurality of funding sources” (emphasis added).

The “system host” or “host system” element, as disclosed and claimed in the instant application, plays the role of an intermediary between the claimed dealer web site and the claimed plurality of funding sources. It is this element that Bennett neither teaches nor suggests.

In fact, Bennett teaches away from the use of an intermediary between a dealer web site and a plurality of funding sources, and instead teaches the use of a “Credit Server” that acts as an intermediary between a dealer web site and a single funding source. Under Bennett, each

funding source has its own Credit Server, and Bennett therefore not only fails to satisfy all of the limitations of the present claims, but it also teaches away from one of the requirements of the independent claims.

The portions of Bennett cited for support in the rejection actually support Applicant's position that Bennett teaches a Credit Server that acts as an intermediary for a single funding source, and not a plurality of funding sources. For example, Bennett makes clear that the Credit Server "resides at the financial institution." Col. 6, ln. 37–38. The Credit Server "transfers data from the dealership to and from the financial institution's existing systems." Col. 6, ln. 49–50.

The Office Action claims twice that lines 48–62 teach the transfer of data "from the dealership to and from the financial institutions" (emphasis added), but again, nothing in lines 48–62 teaches a Credit Server that communicates with a plurality of financial institutions. Lines 48–62 discuss a Credit Server that communicates with one financial institution. To the extent anything in Bennett communicates with a plurality of financial institutions, it is the dealership workstation, which itself is capable of communicating with a plurality of credit servers and allowing an operator to select a particular credit server for communications. Col. 2, ln. 39–42; col. 6, ln. 8–16.

For these reasons, we respectfully submit that independent claims 1 and 12, and the remaining claims, which depend therefrom, are patentable over Bennett, and hereby request the withdrawal of these rejections.

CONCLUSION

In light of the foregoing, we respectfully submit that all of the pending claims are in condition for allowance. Accordingly, we respectfully request reconsideration, withdrawal of all grounds of rejection and objections, and allowance of all of the pending claims in due course.

If the Examiner believes that a telephone conversation with the Applicant's attorney would be helpful in expediting the allowance of this application, the Examiner is invited to call the undersigned at the number identified below.

Respectfully submitted,

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